

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

MFA.No. 1294 of 2001()

OP(MV).998/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZZHA

APPELLANTS/PETITIONERS 1 TO 5

1. ALEYAMMA W/O. LATE SRI,ELIAS,
THONDUMGAL HOUSE, KEERAMPARA KARA,
KEERAMPARA VILLAGE (WIDOW).
2. BASIL S/O. LATE SRI,ALIAS,
THONDUMGAL HOUSE, KEERAMPARA KARA,
KEERAMPARA VILLAGE .
3. ANIL, S/O. LATE SRI,ELIAS, AGED 16 YEARS,
(MINOR) REP.BY HIS MOTHER AND
LEGAL GUARDIAN ALEYAMMA THE IST
APPELLANT , W/O. LATE SRI,ELIAS,
THONDUMGALHOUSE, KEERAMPARA KARA,
KEERAMPARA VILLAGE.
4. SUNIL, S/O . LATE SRI,ELIAS ,
AGED 12 YEARS, (MINOR), REP.BY
HIS MOTHER AND LEGAL GUARDIAN ALEYAMMA
THE IST APPELLANT, W/O. LATE SRI,ELIAS,
THONDUMGAL HOUSE, KEERAMPARA KARA,
KEERAMPARA VILLAGE.
5. ANNAMMA
W/O. LATE ESTHAPPANOSE,
THONDUNGAL HOUSE, KEERAMPARA KARA,
KEERAMPARA VILLAGE.

BY ADV. SRI.SIBY MATHEW
SMT.ANNIE PAUL

M.F.A. NO.1294/2001

RESPONDENTS/RESPONDENTS 1 TO 3

1. SHAMSUDHIN K.P., KUNDUKULAM HOUSE,
NELLIKUZHI, KOTHAMANGALAM.
2. REJIMON, S/O. KUNJU BAVA, PANACKAL HOUSE,
CHELLIYAMPARA, VELLATHOOVAL.
3. THE BRANCH MANAGER,
THE ORIENTAL INSURANCE COMPANY LTD.,
CHURCH VIEW JUNCTION, KOTHAMANGALAM.

R3 BY ADV. SRI.ANCHAL C.VIJAYAN

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 18/12/2007, ALONG WITH MFA. NO.1295/2001 THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

tss

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1294 of 2001

Dated this the 18th day of December, 2007

Judgment

Koshy,J.

Husband of the first appellant while riding a motor cycle on 16.7.1999 was hit by a jeep bearing registration No.KLI 6192 and he sustained fatal injuries. Even though he was taken to St.Joseph's Hospital, Kothamangalam and thereafter to Medical Mission Hospital, Kolencherry he succumbed to the injuries on the same day. His wife and three children along with his mother filed application for compensation for an amount of Rs.5,00,000/- alleging negligence on the part of the second respondent driver of the jeep. From the evidence adduced in this case, the tribunal found that the accident occurred due to the negligence of the driver of the jeep and the jeep was insured by the third respondent

insurance company. However, only Rs.2,06,000/- was awarded by the tribunal. Only quantum of compensation is disputed in this appeal.

2. The appellant was the sole bread winner of the family. He left his young widow, three children and aged mother hapless. He was maintaining the family. The deceased was aged 42 years at the time of accident. The tribunal fixed multiplier of 15. Even though it was argued that due to reduction in interest rate and increase in life expectancy a higher multiplier should be granted, we are of the view that taking guidance from the second schedule, no increase in the multiplier is needed.

3. The deceased was an agriculturist by profession. He was maintaining a large family. His claim was that his monthly income was Rs.4,500/- per month. The tribunal fixed only Rs.1,500/- as the monthly income. It is true that no data was produced to assess the monthly income, but, in 1994, when second schedule was framed,

Parliament fixed Rs.1,250/- as the monthly notional income of a minor child and non-earning persons. Here, the deceased was an earning person maintaining a large family. The accident occurred in 1999. Even an agricultural labourer will get about Rs.150/- as minimum wages in the State. Considering the facts and circumstances of the case, we are of the opinion that at least Rs.2,500/- ought to have been fixed as the monthly income of the deceased and after deducting one-third Rs.1650/0 can be fixed as the loss of family contribution. If so, compensation payable for loss of family contribution will be $\text{Rs.1650} \times 12 \times 15 = \text{Rs.2,97,000/=}$. The tribunal has awarded only Rs.1,20,000/- in this regard. Therefore, claimants will be entitled to Rs.1,77,000/- under this head. The tribunal has granted only Rs.2,000/- for medical expenses. He was taken to St. Joseph's Hospital, Kothamangalam and thereafter to Medical Mission Hospital, Kolencherry, immediately after the accident.

Both were private hospitals. Emergency treatments were given and life saving medicines were administered. According to the claimants, actual expenses incurred was Rs.7,000/-. It is also argued that amounts awarded for travelling expenses and funeral expenses are very low. We are awarding Rs.3,000/- more under these heads together. Thus, additional amount payable is Rs.1,80,000/-. We are of the opinion that no enhancement is needed with regard to the amounts awarded under other heads. The additional amount of Rs.1,80,000/- should be deposited by the third respondent insurance company with 7.5% from the date of application till its deposit. On deposit of the same, fifth appellant is allowed to withdraw an amount of Rs.15,000/-. Out of the balance amount, one-third is allowed to be withdrawn by the first appellant and balance amount is payable in equal shares to appellant Nos.2 to 4. Appellant Nos.2 and 3 have attained the age of 21. So, they are allowed to withdraw

the shares due to them. Amount due to the fourth appellant should be deposited in fixed deposit in a nationalised bank enabling him to withdraw when he attains the age of 21.

Appeal is allowed in part.

J.B.Koshy
Judge

K. Hema
Judge

vaa

**J.B. KOSHY AND
K.HEMA,JJ.**

M.F.A. No. 1294 of 2001

Judgment

Dated:18th
December, 2007